



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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26 April 2017

The Honorable Wayne Stenehjem  
North Dakota Attorney General  
State Capitol  
600 East Boulevard Avenue  
Bismarck, ND 58505-0040

Re: Proposed Amendments to Administrative Rules  
PSC Case No. AD-17-49

Dear Attorney General Stenehjem:



Enclosed please find proposed amendments to the North Dakota Administrative Code by the North Dakota Public Service Commission. In accordance with N.D.C.C. § 28-32-14, the North Dakota Public Service Commission requests your examination of these rules as to their legality so they may be considered for formal adoption and publication in the North Dakota Administrative Code.

Enclosed for purposes of review is a copy of each of the following:

- The 26 April 2017 Public Service Commission Order Submitting Rules to Attorney General, with the final proposed rules attached. The order summarizes the written and oral comments received, the Commission's consideration of the comments, and the Commission's conclusions;
- The 31 January 2017 Commission Motion proposing rules, with rules as originally proposed (same as those attached to the order -- no changes were made).
- Full Notice of Intent to Amend Administrative Rules;
- Abbreviated Notice of Intent to Amend Administrative Rules;
- Affidavit of Publication from the North Dakota Newspaper Association;
- A copy of one of the actual notices, as published (others are available if you want them);
- North Dakota Newspaper Association invoice showing the names of the newspapers in which the abbreviated Notice was published;
- A copy of the cover letter filing the Notice and Administrative Rules with the Legislative Council, with the filing acknowledgment;
- A statement for each rule case regarding the required regulatory analyses, takings assessments, and small entity regulatory analyses;

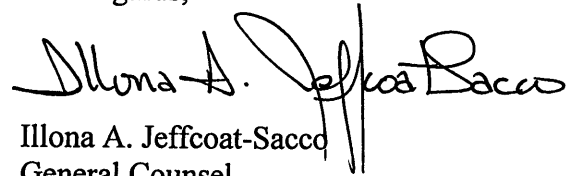
The Honorable Wayne Stenehjem  
26 April 2017  
Page 2

- Testimony from the public hearing and other written comments received; and
- A Fiscal Note regarding the proposed rule.

The proposed rules do not implement any recently enacted legislation.

Thank you for your consideration of the rules. If you have any questions please do not hesitate to call or email.

Best regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

enclosures

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**ORDER SUBMITTING RULES TO ATTORNEY GENERAL**

**April 26, 2017**

**Appearances**

Commissioners Randy Christmann and Julie Fedorchak

**Preliminary Statement**

On January 31, 2017, the North Dakota Public Service Commission (Commission) proposed changes to the Commission's administrative rules and issued a formal Notice of Proposed Rulemaking and an Abbreviated Notice proposing to revise Sections 69-02-04-01, 69-02-04-02, 69-02-07-02, and Chapter 69-02-09 of the North Dakota Administrative Code.

The proposed rules are summarized as follows:

**Rate Case Bill Stuffers – N.D. Admin. Code Section 69-02-04-01**

The proposed change to section 69-02-04-01 adds one type of case, an advance determination of prudence case, to the list of cases in which the applicant utility must provide individual notice of the application to customers.

**Formal Appearance of Staff Analysts – N.D. Admin. Code Section 69-02-04-02**

The proposal is to repeal the existing rule requiring the staff analysts who work on a case to be noted in the appearances.

**Proposed Rules Procedure - N.D. Admin. Code Section 69-02-07-02**

One change is to eliminate the time requirement for filing proposed rules and notices with the Legislative Council. The other change is to reduce the post-hearing comment period from 30 days to 10 days.

**Protection of Information - N.D. Admin. Code Chapter 69-02-09**

The purpose of this rulemaking is to protect specific information filed by telecommunications companies without the need for the originator to file an application, without the need for staff analysis, and without further action by the commission.

On February 1, 2017, Staff filed statements regarding the required regulatory analyses, small entity analyses, and takings assessments.

On February 2, 2017, the notices were filed with the Legislative Council for publication at least 30 days in advance of the hearing.

The weeks of February 10 through February 23, 2017, the Abbreviated Notice was published once in each of the 52 official county newspapers in the state.

On March 15, 2017, the Commission held the public hearing as noticed, beginning at 1:30 p.m., Central Time, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until April 17, 2017, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

### **Public Hearing and Comments**

Commission staff testimony was the only comment received at the hearing. After the hearing, comments were filed by the North Dakota Association of Telecommunications Cooperatives only on the proposed changes to Chapter 69-02-09.

#### **N.D. Admin. Code Section 69-02-04-01**

Staff testified that an advance determination of prudence application has ratemaking consequences and that is the reason for requiring individual customer notice. Currently, even though the specific type of application is not mentioned in the rule, individual customer notices have been required and provided in advance determination of prudence cases because of the ratemaking impact. The proposed change will make the rule consistent with current practice and will have no fiscal or other impact on industry, customers, other stakeholders or the public.

#### **N.D. Admin. Code Section 69-02-04-02**

Staff testified that while the staff who work on a case are introduced by counsel at hearings, the rule requiring those persons to be listed in the appearances has been inconsistently followed and serves no discernable purpose. Repealing that language will have no impact on any stakeholder.

#### **N.D. Admin. Code Section 69-02-07-02**

Staff testified that both changes are proposed to make the procedure consistent with the procedure specified in North Dakota Century Code Chapter 28-32. These changes will have no impact on any stakeholder.



**N.D. Admin. Code Chapter 69-02-09**

Staff testified that the proposal is intended to permit certain information to be protected without the need for the originator to file an application, without the need for staff analysis, and without further action by the commission includes detailed information concerning telecommunications infrastructure projects and detailed information regarding service outages.

The North Dakota Association of Telecommunications Cooperatives (NDATC) filed comments indicating that it fully supports the proposal. NDATC stated that adapting the proposed amendment will bring a clarity and common understanding of data that must be filed with the North Dakota Public Service Commission, as well as remove any ambiguities regarding when trade secret or confidential treatment of data must be requested by a company. Further, the NDATC stated the changed rule will continue to fully protect members and subscribers, provide the necessary protections in a highly competitive marketplace and reduce paperwork and resources for telecom companies.

**Discussion**

The Commission agrees with adopting the rules as originally proposed. The rationale provided by staff and the North Dakota Association of Telecommunications Cooperatives provides a sufficient basis to adopt the rules as proposed.

Having reviewed the proposed rules, and the testimony and comments received, the Commission finds good cause for submitting the revised proposed rules, attached to and made a part of this order, to the Attorney General for an opinion as to legality.

**Order**

The Commission orders the proposed changes to the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to legality.

**PUBLIC SERVICE COMMISSION**



**Brian Kroshus**  
Commissioner



**Randy Christmann**  
Chairman



**Julie Fedorchak**  
Commissioner

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-04  
HEARINGS**

**69-02-04-01. Notice.** In those proceedings in which a hearing is to be held, the commission will assign a time and place for hearing. Notice of the hearing must be posted in the office of the commission, and must be served on the parties and other persons entitled to receive notice at least twenty days prior to the date set for the hearing except in cases of emergency or as otherwise provided by law.

In any proceeding, except rulemaking proceedings, involving the rights of persons who are members of the public generally, notice of hearing must be given by legal publication in the North Dakota daily newspaper of the affected area. Notice must be published at least twenty days prior to the date of the hearing.

An electric, gas, or telecommunications public utility shall provide individual customer notice as required below by billing insert, newsletter, or other appropriate method approved by the commission. The notice must indicate the place and date of the commencement of any hearing, informal hearing, or public input session that has been ordered by the commission, and that the public is invited to attend. Subject to the power of the commission to modify its contents and when applicable, the notice must include a summary sheet describing the absolute dollar and percentage impact of any

proposed rate or price changes by the various classes of services offered by the utility and must include a list of the utility's business office locations where the proposed rate or price schedules and a comparison of present and proposed rates or prices can be examined by the public. The notice must also contain in bold type the following statement when applicable: The rate changes described in this notice have been requested by (specific utility).

For electric and gas utilities, individual customer notice is required for an application for approval of a rate increase, purchase or sale, merger, or acquisition filed by the utility, and applications by the utility for alternative regulation. For electric and gas utilities, the commission may require the utility to provide individual customer notice to potentially affected customers in other rate proceedings, complaint cases, advance determination of prudence cases, and fuel and purchased gas adjustment proceedings.

For telecommunications utilities, individual customer notice is required for an application for a certificate of public convenience and necessity resulting from the sale, merger, or acquisition of an incumbent telecommunications company. The commission may require a telecommunications utility to provide individual customer notice to potentially affected customers in complaint cases.

The individual customer notices required by this section are separate from and in addition to any other customer notices required by law or rule, unless the commission authorizes the utility to satisfy multiple notice requirements with one notice.

**History:** Amended effective October 1, 1980; September 1, 1982; September 1, 1992; January 1, 2001;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-05, 28-32-08, 49-01-07

**69-02-04-02. Appearances.** Each interested party shall enter an appearance at the beginning of the hearing by giving the party's name and address and briefly stating the capacity in which the party appears. All appearances must be noted on the record. ~~The name and position of each member of the commission's staff participating in the hearing or investigation must be included in the record as an appearance.~~

**History:** Amended effective September 1, 1992;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-01-07



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-07  
RULES**

**69-02-07-02. Notice.**

1. The commission will issue a notice that the rules are proposed and set for hearing which will include:
  - a. A short, specific explanation of the proposed rule;
  - b. A brief explanation of the purpose of the proposed rule;
  - c. A determination of whether the proposal impacts the regulated community in excess of fifty thousand dollars;
  - d. A location where the text of the proposed rule may be reviewed;
  - e. Notice to interested persons of the opportunity to submit written comments and to appear and testify at the hearing to offer oral testimony;
  - f. The address to which written comments may be sent;
  - g. The address and telephone number at which a copy of the proposed rules and regulation analysis may be requested; and
  - h. The date, time, and place of the hearing.

2. The commission will publish an abbreviated newspaper notice in each official county newspaper in the state.
3. The commission will file the notice of hearing and a copy of the proposed rules with the legislative council ~~at least thirty days before the hearing~~.
4. The public comment period on the proposed adoption, amendment, or repeal of any rule under this article will close ~~thirty~~ten days after conclusion of the public hearing, unless extended by the commission.
5. The commission will consider all written comments and oral testimony received before adoption, amendment, or repeal of any rule under this article and make a written record of its consideration.

**History:** Effective December 1, 1990; amended effective January 1, 2001;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-02, 49-01-07

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-09  
PROCEDURES FOR PROTECTING INFORMATION FROM DISCLOSURE**

**69-02-09-01. Application to protect information.**

Except as provided in section 69-02-09-13, ~~an applicant~~ a person requesting protection of information in an administrative proceeding or in a response to a commission request for information shall file an application with the commission. The application must include at least the following:

1. A general description of the nature of the information sought to be protected.
2. The specific law or rule on which protection is based.
3. If the basis for protection is that the information is trade secret:
  - a. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
  - b. An explanation of why the information is not readily ascertainable by proper means by other persons;
  - c. A general description of the persons or entities that would obtain

- economic value from disclosure or use of the information;
- d. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing; and
  - e. A description of the efforts used to maintain the secrecy of the information.
- 4. If the basis for protection is a reason other than that the information is trade secret, the specific basis or bases upon which the information qualifies for protection.
  - 5. A redacted public version of the information, unless this requirement is waived by the commission. The amount redacted must be as minimal as possible. If it is not possible to file a redacted public version, a specific written request for waiver of the requirement and the reasons for requesting a waiver must be filed.

**History:** Effective March 1, 1994; amended effective April 1, 2015;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

**69-02-09-02. Filing of application.**

- 1. The application must be addressed to and filed with the executive secretary of the commission.
- 2. The protected material filed with the application or pursuant to section 69-02-09-13 must be separately bound and placed in a sealed envelope, or other appropriate, sealed container, which must be labeled: **PROTECTED INFORMATION - PRIVATE**. An original and seven copies of the public portion of the application must be filed unless this requirement is waived by the

commission. Only one copy of the protected material may be filed.

**History:** Effective March 1, 1994; amended effective April 1, 2015;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-03. Processing the application.**

When an application for protection of information is filed, the commission staff shall examine the information and application, and file and serve a response that includes a recommendation on whether the information qualifies for protection. If the basis for requesting protection is that the information is trade secret, the staff response must include a recommendation on whether the information is relevant and is trade secret, under the definition of trade secret in North Dakota Century Code section 47-25.1-01. The commission will make a determination on the application from the application, the recommendation, and any response received from those served.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-04. Protective order.**

Upon a determination that information qualifies for protection, the commission shall issue a protective order limiting disclosure.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-05. Request for hearing - Who may request - Time - Burden of proof.**

1. Upon a determination that the information does not qualify for protection,

the applicant will be notified and has seven days to request a hearing before the commission, or obtain appropriate injunctive relief from the courts. If no hearing is requested or the commission is not otherwise restrained, the information will become part of the public record without protection. The burden of proof in such a hearing is on the party seeking to prevent disclosure.

2. If any person disagrees with the designation of information as protected or with its nondisclosure, the person shall first attempt to informally dispose of the dispute with the party seeking to prevent disclosure. If the dispute cannot be resolved, any person may request a hearing before the commission to determine the protected status.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

**69-02-09-13. Information filed under sections ~~69-09-05-12~~ and ~~69-09-05-12.1~~ by telecommunications companies.**

Information filed to comply with subdivision b of subsection 3 of section ~~69-09-05-12~~ or section ~~69-09-05-12.1~~ identified in subsections one through five of this section is protected without need for the originator to file an application and without further action by the commission, unless the commission orders otherwise. Sections ~~69-02-09-01~~ 69-02-09-01(1) through ~~69-02-09-04~~ 69-02-09-01(4), 69-02-09-02(1), 69-02-09-03, 69-02-09-04, and 69-02-09-05(1) do not apply to information filed to comply with subdivision b of subsection 3 of section ~~69-09-05-12~~, or subsections 1, 2, or 3 of section ~~69-09-05-12.1~~ under this section.

1. Detailed information concerning telecommunications infrastructure projects.



2. Disaggregated data on provisioned volumes of local services by service type and local exchange.
3. Disaggregated data on provisioned volumes and associated revenue of switched access traffic by jurisdiction or local exchange.
4. Detailed information on service outages as defined in Title 47 Code of Federal Regulations, Part 4, Section 4.5, in effect as of January 30, 2017.
5. Financial information required by the Federal Communications Commission to be copied to the commission, accompanied by the filing of a copy of the Federal Communication Commission's Protective Order for that information.

**History:** Effective April 1, 2015; amended effective \_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

APPROVED

DATE: 1-31-17

**MOTION**

**January 31, 2017**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

I move the Commission propose the attached revisions to the North Dakota Administrative Code, and issue a Notice of Intent to Amend Administrative Rules and Notice of Public Hearing and an abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for publication in each official county newspaper throughout the state as required by law, in Public Service Commission, Practice and Procedure, Rulemaking, Case No. AD-17-49.

Section 69-02-04-01	Customer Notice
Section 69-02-04-02	Appearances
Section 69-02-07-02	Proposed Rule Filing and Comment Period
Chapter 69-02-09	Procedures for Protecting Information from Disclosure

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-04  
HEARINGS**

**69-02-04-01. Notice.** In those proceedings in which a hearing is to be held, the commission will assign a time and place for hearing. Notice of the hearing must be posted in the office of the commission, and must be served on the parties and other persons entitled to receive notice at least twenty days prior to the date set for the hearing except in cases of emergency or as otherwise provided by law.

In any proceeding, except rulemaking proceedings, involving the rights of persons who are members of the public generally, notice of hearing must be given by legal publication in the North Dakota daily newspaper of the affected area. Notice must be published at least twenty days prior to the date of the hearing.

An electric, gas, or telecommunications public utility shall provide individual customer notice as required below by billing insert, newsletter, or other appropriate method approved by the commission. The notice must indicate the place and date of the commencement of any hearing, informal hearing, or public input session that has been ordered by the commission, and that the public is invited to attend. Subject to the power of the commission to modify its contents and when applicable, the notice must include a summary sheet describing the absolute dollar and percentage impact of any

proposed rate or price changes by the various classes of services offered by the utility and must include a list of the utility's business office locations where the proposed rate or price schedules and a comparison of present and proposed rates or prices can be examined by the public. The notice must also contain in bold type the following statement when applicable: The rate changes described in this notice have been requested by (specific utility).

For electric and gas utilities, individual customer notice is required for an application for approval of a rate increase, purchase or sale, merger, or acquisition filed by the utility, and applications by the utility for alternative regulation. For electric and gas utilities, the commission may require the utility to provide individual customer notice to potentially affected customers in other rate proceedings, complaint cases, advance determination of prudence cases, and fuel and purchased gas adjustment proceedings.

For telecommunications utilities, individual customer notice is required for an application for a certificate of public convenience and necessity resulting from the sale, merger, or acquisition of an incumbent telecommunications company. The commission may require a telecommunications utility to provide individual customer notice to potentially affected customers in complaint cases.

The individual customer notices required by this section are separate from and in addition to any other customer notices required by law or rule, unless the commission authorizes the utility to satisfy multiple notice requirements with one notice.

**History:** Amended effective October 1, 1980; September 1, 1982; September 1, 1992; January 1, 2001; \_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-05, 28-32-08, 49-01-07

**69-02-04-02. Appearances.** Each interested party shall enter an appearance at the beginning of the hearing by giving the party's name and address and briefly stating the capacity in which the party appears. All appearances must be noted on the record. ~~The name and position of each member of the commission's staff participating in the hearing or investigation must be included in the record as an appearance.~~

**History:** Amended effective September 1, 1992;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-01-07

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-07  
RULES**

**69-02-07-02. Notice.**

1. The commission will issue a notice that the rules are proposed and set for hearing which will include:
  - a. A short, specific explanation of the proposed rule;
  - b. A brief explanation of the purpose of the proposed rule;
  - c. A determination of whether the proposal impacts the regulated community in excess of fifty thousand dollars;
  - d. A location where the text of the proposed rule may be reviewed;
  - e. Notice to interested persons of the opportunity to submit written comments and to appear and testify at the hearing to offer oral testimony;
  - f. The address to which written comments may be sent;
  - g. The address and telephone number at which a copy of the proposed rules and regulation analysis may be requested; and
  - h. The date, time, and place of the hearing.



2. The commission will publish an abbreviated newspaper notice in each official county newspaper in the state.
3. The commission will file the notice of hearing and a copy of the proposed rules with the legislative council ~~at least thirty days before the hearing~~.
4. The public comment period on the proposed adoption, amendment, or repeal of any rule under this article will close ~~thirty~~ten days after conclusion of the public hearing, unless extended by the commission.
5. The commission will consider all written comments and oral testimony received before adoption, amendment, or repeal of any rule under this article and make a written record of its consideration.

**History:** Effective December 1, 1990; amended effective January 1, 2001;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-02, 49-01-07

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Proposed Rule**

**January 31, 2017**

**CHAPTER 69-02-09  
PROCEDURES FOR PROTECTING INFORMATION FROM DISCLOSURE**

**69-02-09-01. Application to protect information.**

Except as provided in section 69-02-09-13, ~~an applicant~~ a person requesting protection of information in an administrative proceeding or in a response to a commission request for information shall file an application with the commission. The application must include at least the following:

1. A general description of the nature of the information sought to be protected.
2. The specific law or rule on which protection is based.
3. If the basis for protection is that the information is trade secret:
  - a. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
  - b. An explanation of why the information is not readily ascertainable by proper means by other persons;
  - c. A general description of the persons or entities that would obtain

- economic value from disclosure or use of the information;
- d. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing; and
  - e. A description of the efforts used to maintain the secrecy of the information.
- 4. If the basis for protection is a reason other than that the information is trade secret, the specific basis or bases upon which the information qualifies for protection.
  - 5. A redacted public version of the information, unless this requirement is waived by the commission. The amount redacted must be as minimal as possible. If it is not possible to file a redacted public version, a specific written request for waiver of the requirement and the reasons for requesting a waiver must be filed.

**History:** Effective March 1, 1994; amended effective April 1, 2015; \_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

**69-02-09-02. Filing of application.**

- 1. The application must be addressed to and filed with the executive secretary of the commission.
- 2. The protected material filed with the application or pursuant to section 69-02-09-13 must be separately bound and placed in a sealed envelope, or other appropriate, sealed container, which must be labeled: **PROTECTED INFORMATION - PRIVATE**. An original and seven copies of the public portion of the application must be filed unless this requirement is waived by the

commission. Only one copy of the protected material may be filed.

**History:** Effective March 1, 1994; amended effective April 1, 2015;\_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-03. Processing the application.**

When an application for protection of information is filed, the commission staff shall examine the information and application, and file and serve a response that includes a recommendation on whether the information qualifies for protection. If the basis for requesting protection is that the information is trade secret, the staff response must include a recommendation on whether the information is relevant and is trade secret, under the definition of trade secret in North Dakota Century Code section 47-25.1-01. The commission will make a determination on the application from the application, the recommendation, and any response received from those served.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-04. Protective order.**

Upon a determination that information qualifies for protection, the commission shall issue a protective order limiting disclosure.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

#### **69-02-09-05. Request for hearing - Who may request - Time - Burden of proof.**

1. Upon a determination that the information does not qualify for protection,

the applicant will be notified and has seven days to request a hearing before the commission, or obtain appropriate injunctive relief from the courts. If no hearing is requested or the commission is not otherwise restrained, the information will become part of the public record without protection. The burden of proof in such a hearing is on the party seeking to prevent disclosure.

2. If any person disagrees with the designation of information as protected or with its nondisclosure, the person shall first attempt to informally dispose of the dispute with the party seeking to prevent disclosure. If the dispute cannot be resolved, any person may request a hearing before the commission to determine the protected status.

**History:** Effective March 1, 1994; amended effective April 1, 2015.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1

**69-02-09-13. Information filed under sections ~~69-09-05-12~~ and ~~69-09-05-12.1~~ by telecommunications companies.**

~~Information filed to comply with subdivision b of subsection 3 of section 69-09-05-12 or section 69-09-05-12.1 identified in subsections one through five of this section~~ is protected without need for the originator to file an application and without further action by the commission, unless the commission orders otherwise. Sections ~~69-02-09-04~~ 69-02-09-01(1) through 69-02-09-04 69-02-09-01(4), 69-02-09-02(1), 69-02-09-03, 69-02-09-04, and 69-02-09-05(1) do not apply to information filed ~~to comply with subdivision b of subsection 3 of section 69-09-05-12, or subsections 1, 2, or 3 of section 69-09-05-12.1 under this section.~~

1. Detailed information concerning telecommunications infrastructure projects.

2. Disaggregated data on provisioned volumes of local services by service type and local exchange.
3. Disaggregated data on provisioned volumes and associated revenue of switched access traffic by jurisdiction or local exchange.
4. Detailed information on service outages as defined in Title 47 Code of Federal Regulations, Part 4, Section 4.5, in effect as of January 30, 2017.
5. Financial information required by the Federal Communications Commission to be copied to the commission, accompanied by the filing of a copy of the Federal Communication Commission's Protective Order for that information.

**History:** Effective April 1, 2015; amended effective \_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 28-32-06, 47-25.1



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND NOTICE OF  
PUBLIC HEARING**

**January 31, 2017**

**PLEASE TAKE NOTICE** that the Public Service Commission intends to propose amendments to the following parts of the North Dakota Administrative Code: Section 69-02-04-01, Section 69-02-04-02, Section 69-02-07-02 and Chapter 69-02-09.

A hearing will be held on the proposed rules at **1:30 p.m. Central Time on March 15, 2017, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.**

The proposed revisions are: changes to the rules regarding individual customer notice in utility rate related cases (bill stuffers), appearances at formal hearings, the filing and comment period time frames for proposed rules, and changes to the procedure for protecting certain information filed by telecommunications companies.

One additional type of utility filing will be included with the existing types of filings for which individual customer notice is required. The requirement that staff who work on formal cases be noted as making a formal appearance is being deleted. Certain time frames associated with the procedure proposing rules are being revised to make the commission's procedure consistent with statute. Information filed by telecommunications companies is specified as protected without the need for application for protection.

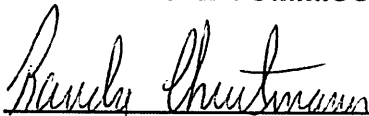
The proposed rule changes and the statements concerning the Regulatory Analysis, Small Entity Regulatory Analysis and Economic Impact, and Takings Assessment may be reviewed at the Public Service Commission's offices on the 12<sup>th</sup> floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes or the statements contact the Public Service Commission at 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888, or [ndpsc@nd.gov](mailto:ndpsc@nd.gov). This information is also available on the Commission's web site at [www.psc.nd.gov](http://www.psc.nd.gov) under "Formal Actions/Case Search".

Interested persons may attend the hearing and may submit written comments on the proposed rules. Written comments should be filed with Darrell Nitschke, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, or [ndpsc@nd.gov](mailto:ndpsc@nd.gov). The comment period closes 30 days after the hearing. Comments must be received by the close of business on April 17, 2017.

If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission at least 24 hours in advance.

**PUBLIC SERVICE COMMISSION**

  
**Brian P. Kalk**  
Commissioner

  
**Randy Christmann**  
Chairman

  
**Julie Fedorchak**  
Commissioner

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND  
NOTICE OF PUBLIC HEARING**

**January 31, 2017**

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the following parts of the North Dakota Administrative Code: Section 69-02-04-01, Section 69-02-04-02, Section 69-02-07-02, and Chapter 69-02-09.

A public hearing will be held at 1:30 p.m. Central Time, March 15, 2017, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Written comments may be submitted to the Public Service Commission until the close of business on April 17, 2017.

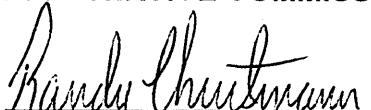
A copy of the proposed rules may be obtained from the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY: 1-800-366-6888, or [ndpsc@nd.gov](mailto:ndpsc@nd.gov). This information is also available to view on the Public Service Commission's web site at [www.psc.nd.gov](http://www.psc.nd.gov) under "Formal Actions/Case Search".

If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify the Commission at least 24 hours in advance.

**PUBLIC SERVICE COMMISSION**



**Brian P. Kalk  
Commissioner**



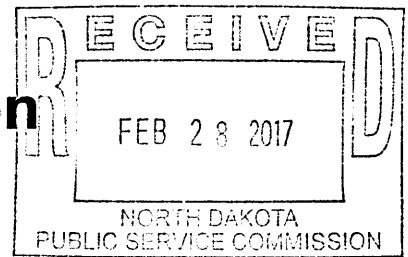
**Randy Christmann  
Chairman**



**Julie Fedorchak  
Commissioner**



## Affidavit of Publication



Colleen Park, being duly sworn, states as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of:  
**Public Service Commission – Administrative Rules relating to Practice and Procedure Rulemaking; 1 time(s)** as required by law or ordinance.

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

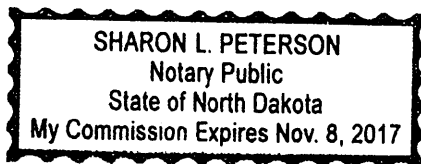
Signed: Colleen Park

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 27 day of Feb., 2017.

Sharon L. Peterson



With the 2x2 Network, you can get 'em all!

Run an ad this size in  
ALL NORTH DAKOTA NEWSPAPERS  
for only \$600!  
(Regions also available.)



Contact this paper for details.



## Don't Bet The Farm.

Get the right coverage for your operation.

Lets review your crop insurance coverage. Purchasing crop insurance from Agri Insurance, Inc. is purchasing protection for your farm, your family, and your way of life. Call us today!



Get covered by March 15.

(800) 872-4498

Agri Insurance, Inc., P.O. Box 308, Beach, ND 58621-0308  
info@agnins.com

Don Hardy, Mark Hardy, Bruce Ross, Dirk O'Connor, Ben Kuhn

Proud Partner of The Agency Insurance, LLC  
(Home, Auto, Life, Business, RV, Motorcycle, ATV, Farm & Ranch Insurance)

Centennial  
June 30 -  
July 2

### NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES AND NOTICE OF PUBLIC HEARING

relating to  
Practice and Procedure Rulemaking

### North Dakota Public Service Commission

will hold a public hearing to address  
proposed amendments to the following parts  
of the North Dakota Administrative Code:  
Section 69-02-04-01, Section 69-02-04-02,  
Section 69-02-07-02, and Chapter 69-02-09.

Commission Hearing Rm.  
12th Floor of State Capitol  
600 E. Boulevard Ave.  
Dept. 408  
Bismarck, ND

Wed., March 15, 2017  
1:30 p.m. CT

A copy of the proposed rules may be  
obtained from the Public Service Com-  
mission, 600 East Boulevard Avenue,  
Department 408, Bismarck, North Dakota  
58505-0480, 701-328-2400, toll free  
1-877-245-6685, Relay North Dakota  
TTY: 1-800-366-6888, or ndpsc@nd.gov.  
This information is also available to view  
on the Public Service Commission's web  
site at [www.psc.nd.gov](http://www.psc.nd.gov) under "Formal  
Actions/Case Search". Written comments  
may be submitted to the Public Service  
Commission until the close of business on  
April 17, 2017. If you require any auxiliary  
aids or services, such as readers, sign-  
ers, or Braille materials, please notify the  
Commission at least 24 hours in advance.

PUBLIC SERVICE COMMISSION

Brian P. Kalk  
Commissioner

Randy Christmann  
Chairman

Julie Fedorchak  
Commissioner

### This Week's Local Forecast



Friday Sunny Sunday Isolated Rain Monday Mostly Cloudy Tuesday Mostly Cloudy Wednesday Mostly Cloudy

30/40 42/31 39/28 33/21 35/24

Precip Chance: 5% Precip Chance: 30% Precip Chance: 20% Precip Chance: 20% Precip Chance: 20%

### Weather Trivia

What is a column of  
hail that falls from a  
single thunderstorm  
cell called?

Answer: Hailshaft

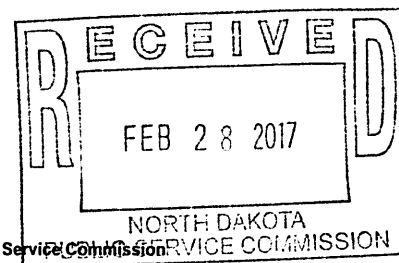
[www.WhatsOurWeather.com](http://www.WhatsOurWeather.com)

# North Dakota Newspaper Association

1435 Interstate Loop  
Bismarck, North Dakota 58503  
Phone: 1-701-223-6397 Fax: 1-701-223-8185

## INVOICE

February 27, 2017



Order: 17023PP1

Invoice# 6476

Attn: Darrell Nitschke  
Public Service Commission  
600 E. Blvd Ave. Dept 408  
Bismarck, North Dakota 58505

Advertiser:

Public Service Commission

Brand:

Campaign

Amount Due:

\$2,426.08

Voice: 1-701-328-4076

Fax:

Please detach and return this portion with your payment

Public Service Commission Invoice# 6476 P.O.#:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Ashley Tribune (Ashley, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Beach, Golden Valley News (Beach, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Beulah Beacon (Beulah, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Bismarck Tribune (Bismarck, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$13.03		\$84.70	\$0.00	(0.00%)	\$84.70	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$13.03</b>	<b>\$0.00</b>	<b>\$84.70</b>	<b>\$0.00</b>		<b>\$84.70</b>	
<b>Bottineau Courier (Bottineau, North Dakota)</b>									
02/14/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Bowbells, Burke County Tribune (Bowbells, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Bowman County Pioneer (Bowman, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	
Caption: ... relating to Practice and Procedure Rulemaking									
02/17/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
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<b>Cando, Towner County Record Herald (Cando, North Dakota)</b>									
02/11/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									

Page 1 of 5

North Dakota Newspaper Association 02/27/2017 127.0.0.1 #

10

AD-17-49

Filed: 2/28/2017

Pages: 5

Invoice #6476 \$2,426.08

North Dakota Newspaper Association



Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Carrington, Foster County Independent (Carrington, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Carson Press (Elgin, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Cavaller Chronicle (Cavaller, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Center Republican (Hazen, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Cooperstown, Griggs County Courier (Cooperstown, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Crosby, The Journal (Crosby, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Devils Lake Journal (Devils Lake, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$8.86</b>	<b>\$0.00</b>	<b>\$57.59</b>	<b>\$0.00</b>		<b>\$57.59</b>	
<b>Dickinson Press (Dickinson, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$8.86</b>	<b>\$0.00</b>	<b>\$57.59</b>	<b>\$0.00</b>		<b>\$57.59</b>	
<b>Elgin, Grant County News (Elgin, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Ellendale, Dickey County Leader (Ellendale, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Fargo, The Forum (Fargo, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$13.03		\$84.70	\$0.00	(0.00%)	\$84.70	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$13.03</b>	<b>\$0.00</b>	<b>\$84.70</b>	<b>\$0.00</b>		<b>\$84.70</b>	
<b>Finley, Steele County Press (Finley, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Garrison, McLean County Independent (Garrison, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$0.00		DID NOT RUN	\$0.00	(0.00%)	\$0.00	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Caption: ... relating to Practice and Procedure Rulemaking									
02/23/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>13.00</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Grafton, Walsh County Record (Grafton, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Grand Forks Herald (Grand Forks, North Dakota)</b>									
02/11/2017	6.50	Notice Display	\$13.03		\$84.70	\$0.00	(0.00%)	\$84.70	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$13.03</b>	<b>\$0.00</b>	<b>\$84.70</b>	<b>\$0.00</b>		<b>\$84.70</b>	
<b>Harvey, The Herald-Press (Harvey, North Dakota)</b>									
02/11/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Hettinger, Adams County Record (Hettinger, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Jamestown Sun (Jamestown, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$8.86</b>	<b>\$0.00</b>	<b>\$57.59</b>	<b>\$0.00</b>		<b>\$57.59</b>	
<b>Killdeer, Dunn County Herald (Killdeer, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>LaMoure Chronicle (LaMoure, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Lakota American (Lakota, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Langdon, Cavalier County Republican (Langdon, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Linton, Emmons County Record (Linton, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Lisbon, Ransom County Gazette (Lisbon, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>	<b>6.50</b>		<b>\$6.38</b>	<b>\$0.00</b>	<b>\$41.47</b>	<b>\$0.00</b>		<b>\$41.47</b>	
<b>Mandan News (Mandan, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Mayville, Traill Co Tribune (Mayville, North Dakota)</b>									
02/11/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>McClusky Gazette (McClusky, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Medora, Billings County Pioneer (Beach, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Milnor The Sargent County Teller (Milnor, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Minnewaukan Benson County Farmers Press (Minnewaukan, North Dakota)</b>									
02/16/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Minot Daily News (Minot, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$13.03		\$84.70	\$0.00	(0.00%)	\$84.70	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$13.03	\$0.00	\$84.70	\$0.00		\$84.70	
<b>Mohall Renville County Farmer (Mohall, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Napoleon Homestead (Napoleon, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>New England Herald (New England, North Dakota)</b>									
02/10/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>New Rockford Transcript (New Rockford, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Rolla Turtle Mountain Star (Rolla, North Dakota)</b>									
02/13/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Rugby Pierce County Tribune (Rugby, North Dakota)</b>									
02/11/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
<b>Subtotal:</b>		6.50	\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
<b>Stanley Mountrail County Promoter (Stanley, North Dakota)</b>									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	

Public Service Commission Invoice# 6476 P.O.#:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
Steele Ozone & Kidder County Press (Steele, North Dakota)									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
Towner Mouse River Journal (Towner, North Dakota)									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
Valley City Times-Record (Valley City, North Dakota)									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$8.86	\$0.00	\$57.59	\$0.00		\$57.59	
Wahpeton, The Daily News (Wahpeton, North Dakota)									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$8.86	\$0.00	\$57.59	\$0.00		\$57.59	
Watford City, McKenzie County Farmer (Watford City, North Dakota)									
02/15/2017	6.50	Notice Display	\$6.38		\$41.47	\$0.00	(0.00%)	\$41.47	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$6.38	\$0.00	\$41.47	\$0.00		\$41.47	
Williston Herald (Williston, North Dakota)									
02/10/2017	6.50	Notice Display	\$8.86		\$57.59	\$0.00	(0.00%)	\$57.59	
Caption: ... relating to Practice and Procedure Rulemaking									
Subtotal:	6.50		\$8.86	\$0.00	\$57.59	\$0.00		\$57.59	
Gross Advertising \$2,426.08									
Total Misc \$0.00									
Amount Paid \$0.00									
Agency Discount \$0.00									
Tax \$0.00									
Adjustments \$0.00									
Other Discount \$0.00									
Total Billed \$2,426.08									
Payment Date									
Service Charge \$0.00									
Unbilled \$0.00									
Balance Due \$2,426.08									

To avoid costly credit card fees, we encourage our clients to pay with a check or by direct deposit.  
However, if you'd prefer to use your credit card, please go to [www.ndna.com/billpay](http://www.ndna.com/billpay). Thank you!



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

Vonette Richter  
Code Reviser  
North Dakota Legislative Council  
State Capitol  
600 East Boulevard, 2<sup>nd</sup> Floor  
Bismarck, ND 58505-0360

2 February 2017

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
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Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

Re: Notice of Intent to Amend Administrative Rules  
PSC Case No. AD-17-49


Dear Ms. Richter:

The Public Service Commission recently passed a motion to propose changes to its administrative rules. Consequently, enclosed please find copies of:

- Commission Motion to Propose Revisions to the North Dakota Administrative Code and Issue Notices;
- Proposed rule changes that were the subject of the Motion:
  - Section 69-02-04-01 - Customer Notice
  - Section 69-02-04-02 - Appearances
  - Section 69-02-07-02 - Proposed Rule Filing and Comment Period
  - Chapter 69-02-09 - Procedures for Protecting Information from Disclosure
- Notice of Intent to Amend Administrative Rules and Notice of Public Hearing; and
- Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing.

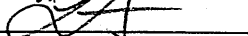
If you have any questions please do not hesitate to call.

Best Regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

enclosures

Received by the office of the Legislative Council this 2<sup>nd</sup> day of  
February, 2017

By: 

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**Statements on Regulatory Analysis, Small Entity Analysis,  
and Takings Assessment**

**31 January 2017**

The proposed rules consist of changes to the Public Service Commission's procedural rules in the following areas: individual customer notice in cases related to utility rates (bill stuffers); appearances at formal hearings; filing proposed rules with Legislative Council, post-hearing comment period for proposed rules; and protection of certain information filed by telecommunications companies.

One additional type of utility filing will be included with the existing types of filings for which individual utility customer notice is required. The requirement that staff who work on formal cases be noted as making a formal appearance is being deleted. The 'thirty days before hearing requirement' for filing proposed rules with the Legislative Council is being eliminated to make the rules consistent with North Dakota Century Code Chapter 28-32. The 30 day comment period after a rules hearing is being revised to 10 days, also to make the procedure consistent with statutory requirements. Finally changes are proposed to permit telecommunication companies to file, and the commission to protect, certain information without the need for an application, a staff analysis, or a commission order.

None of these changes should have any sort of negative impact, financial or otherwise, on regulated industry, consumers, other stakeholders, the Commission, or the public. On the contrary, the proposed rules make the administrative process more efficient and most will save resources for both the regulated community and the agency.

**Rate Case Bill Stuffers – N.D. Admin. Code Section 69-02-04-01**

The proposed change to section 69-02-04-01 adds one type of case, an advance determination of prudence case, to the list of cases in which the applicant utility must provide individual notice of the application to customers. An advance determination of prudence application has ratemaking consequences and that is the reason for requiring individual customer notice. Currently, even though the specific type of application is not mentioned in the rule, individual customer notices have been required and provided in advance determination of prudence cases because of the ratemaking impact. The proposed change will make the rule consistent with current practice and will have no fiscal or other impact on industry, customers, other stakeholders or the public.

**Formal Appearance of Staff Analysts – N.D. Admin. Code Section 69-02-04-02**

Existing rule requires the staff analysts who work on a case to be noted in the appearances. While the staff who work on a case are introduced by counsel at hearings, the rule requiring those persons to be listed in the appearances has been inconsistently followed and serves no discernable purpose. Repealing that language will have no impact on any stakeholder.

**Proposed Rules Procedure - N.D. Admin. Code Section 69-02-07-02**

One change is to eliminate the time requirement for filing proposed rules and notices with the Legislative Council. The other change is to reduce the post-hearing comment period from 30 days to 10 days. Both changes are proposed to make the procedure consistent with the procedure specified in North Dakota Century Code Chapter 28-32. These changes will have no impact on any stakeholder.

**Protection of Information - N.D. Admin. Code Chapter 69-02-09**

The amendments allow protection for certain information filed by telecommunications companies, without need for an application, a staff analysis, or a commission order. Other procedures in the chapter still apply. The amendments also specify which of the procedures in the chapter do and do not apply to the filing of this information. These changes do not negatively impact the industry or any stakeholder. On the contrary, they make the administrative process more efficient and will save resources for both the regulated community and the agency

**Statement on Small Entity Analysis and Economic Impact**

Each proposed rule could impact a small entity. However, the impact will be neutral or positive. Several of the proposals make the process involved more efficient and will save time and money for applicants and others interacting with the Public Service Commission. No alternatives were considered other than making no changes at all, which imposes a greater economic and regulatory burden on all impacted entities, including small entities and the agency.

**Statement on Regulatory Analysis and Takings Assessment**

Since none of the proposals will impact the regulated community by more than \$50,000, and no one has requested a regulatory analysis, none is being prepared at this time for any of the proposed rule changes.

Since none of the proposed rules constitutes a taking of private real property, no Takings Assessment is being prepared.

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**PUBLIC SERVICE COMMISSION STAFF TESTIMONY  
CUSTOMER NOTICE – APPEARANCES - PROPOSED RULES PROCESS**

**March 15, 2017**

My name is Illona Jeffcoat-Sacco. I am General Counsel with the Public Service Commission. The proposed rules affect the following four topics: 1) individual customer notice in cases related to utility rates (bill stuffers); 2) appearances at formal hearings; 3) filing proposed rules with the Legislative Council and the post-hearing comment period for proposed procedural rules; and 4) protection of certain information filed by telecommunications companies. This testimony discusses the first three, and the fourth is being discussed by Pat Fahn, Public Utilities Director.

**1. Rate Case Bill Stuffers - N.D. Admin Code section 69-02-04-01**

**2. Appearances at Formal Hearings - N.D. Admin Code section 69-02-04-02**

The existing bill stuffer rule lists several cases in which the applicant utility must provide individual notice of the application to customers. The proposed change adds one additional type of case, an advanced determination of prudence case to this list. Advanced determination of prudence cases have ratemaking consequences and therefore should require individual customer notice. Current practice is to require and provide individual customer notices in these types of cases due to the ratemaking consequences, so the rule change should have no impact on industry, customers, the public, or other stakeholders.



The existing rule on appearances requires that staff analysts who work on the case be noted in the appearances. At hearings, counsel introduces the staff working on the case, but the rule requiring these staff members be listed in the appearances has been inconsistently followed and serves no discernable purpose. In addition, it could imply that staff analysts are engaging in the unauthorized practice of law. Repealing the language would have no impact on any stakeholder. The two proposed changes just discussed were previously proposed and adopted by the Commission in Case No. AD-14-762, but due to an inadvertent error, were never approved by the Attorney General and were never filed with the Legislative Council.

**(3) Filing proposed rules with Legislative Council and post-hearing comment period for proposed procedural rules - N.D. Admin. Code section 69-02-07-02 (3) and (4)**

This change is proposed to eliminate an outdated requirement to file proposed rules and rules notices with the Legislative Council at least thirty days before the hearing. Current law requires filing with the legislative Council, but does not impose a time requirement on this filing.

The other change is to reduce the post-hearing comment period from thirty days to ten days.

Both changes would result in making the Commission's rulemaking procedure consistent with the procedure specified in North Dakota Century Code Chapter 28-32. Neither change should have any impact on any stakeholder.

This completes my comments.

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**PUBLIC SERVICE COMMISSION STAFF TESTIMONY  
PROTECTION OF INFORMATION**

**March 15, 2017**

My name is Patrick Fahn. I am the Director of the Public Utilities Division of the Public Service Commission.

The purpose of this testimony is to describe the proposed administrative rule changes to North Dakota Administrative Code chapter 69-02-09 pertaining to procedures for protecting information from disclosure.

Current rules prescribe protection for certain information filed by telecommunications companies in the annual report to the commission required under 69-09-05-12.1. Information protected without the need for the originator to file an application, without the need for staff analysis, and without further action by the commission includes detailed information concerning telecommunications infrastructure projects and detailed information regarding service outages.

This proposed rule change extends this "prescribed" protection to those two information types contained in any filing with the commission, and expands this prescribed protection to disaggregated data on provisioned volumes of local services by service type and local exchange, disaggregated data on provisioned volumes and associated revenue of switched access traffic by jurisdiction or local exchange, and

any financial information that is protected by a Federal Communications Commission Protective Order.

The Commission receives 80 or more filings each year that contain some or all of these information types. The proposed rule regarding information that both the industry and the Commission have found should be protected; and removing the requirement to file an application, the requirement for staff analysis, and the requirement for a Commission decision each time these types of information are filed; will result in a more efficient administrative process and will save resources for both the regulated community and the agency.

This concludes my testimony.

Thank you.

## **-Info-Public Service Commission**

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**From:** d. crothers <dcrothers@yahoo.com>  
**Sent:** Monday, April 17, 2017 8:57 AM  
**To:** -Info-Public Service Commission  
**Cc:** Fahn, Patrick J.  
**Subject:** N.D. Association of Telecom Cooperative Comments for Case Number AD-17-49

**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

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North Dakota Public Service Commission:

My name is David Crothers. I am the executive vice president of the North Dakota Association of Telecommunications Cooperatives. The Association represents the entire independent telecommunications industry in the State.

The Association is fully supportive of the proposed rule changes to North Dakota Administrative Code chapter 69-02-09 pertaining to procedures for protecting information from disclosure. The Association believes adopting the proposed amendment will bring a clarity and common understanding of data that must be filed with the North Dakota Public Service Commission, as well as remove any ambiguities regarding when trade secret or confidential treatment of data must be requested by a telecommunications company.

Adoption of the proposed rule will, in the Association's judgment, continue to fully protect members and subscribers, provide the necessary protections in a highly competitive marketplace and reduce paperwork and resources for telecom companies.

Members of the Association include BEK Communications, Consolidated Telcom, Dakota Central Telecommunications, Dickey Rural Networks, Intercommunity Telecommunications Company, Midstate Telecommunications Company, MLGC, Nemont Telephone Cooperative, North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Corporation, Red River Communications, Reservation Telephone Cooperative, SRT, United Telephone Mutual Aid Corporation and West River Telecommunications Cooperative.

Thank you,

David Crothers  
Executive Vice President  
N.D. Association of Telecommunications Cooperatives  
Mandan, N.D. 58554  
Work: 701-663-1099  
Cell: 701-471-3838

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Practice and Procedure  
Rulemaking**

**Case No. AD-17-49**

**FISCAL NOTE**

**25 April 2017**

Adoption of the proposed rules in the captioned case is not expected to have any impact on state expenditures or revenues.